

## *Office of the Chapter 13 Standing Trustee*

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*Isabel C. Balboa, Chapter 13 Standing Trustee*<sup>†</sup>

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December 16, 2020

The Honorable Andrew B. Altenburg, Jr.  
United States Bankruptcy Court  
P.O. Box 2067  
Camden, New Jersey 08102

**RE: Debtor(s) Name: Jason J. Amer and Heather A. Amer**  
**Case No. 19-29565 (ABA)**

Dear Judge Altenburg:

Please accept this letter in lieu of a more formal response to Debtors' Motion to Approve Post-Petition Financing, which is returnable Tuesday, January 12, 2021 at 10:00 a.m.

At the time of filing their Chapter 13 Bankruptcy Petition, Debtors owned three (3) vehicles: a 2016 Hyundai Sonata financed through Ally Capital with monthly payments of \$311.61, a 2019 Hyundai Sonata financed through Global Lending Services with monthly payment of \$502.52, and a 2016 Volkswagen Passat leased through VW Credit, Inc. with monthly payments of \$600.73. Debtors' Chapter 13 Plan proposed to surrender the 2016 Volkswagen Passat to VW Credit and maintain regular payments outside the plan for the other two vehicles. An Order Confirming Chapter 13 Plan was entered on December 20, 2019.

On January 8, 2020, an Order Granting Motion for Relief for the 2016 Volkswagen Passat was entered by the Court. On August 28, 2020, Global Lending Services, LLC, filed a Motion for Relief from the Automatic Stay alleging Debtors were \$4,007.99 in post-petition auto arrears for the 2019 Hyundai Sonata. An Order Resolving Motion for Relief was entered on October 1, 2020, which requires Debtors to submit six payments to the secured creditor in the amount of \$668.36 starting September 27, 2020.

On November 19, 2020, Debtors filed a Modified Chapter 13 Plan with the Court (Doc No. 51) which proposes plan payments in the amount of \$713 per month commencing December 1, 2020. Part 9 of the modified plan states that the plan is being modified to surrender the 2016 Hyundai Sonata to Ally Capital because the vehicle was totaled in a motor vehicle accident, and to surrender the 2019 Hyundai Sonata to Global Lending Services because they cannot afford the Order Resolving Motion for Relief repayment plan. A Confirmation Hearing is scheduled for January 13, 2021 at 10:00 a.m.

The Trustee notes that Debtors have not provided any information with regard to the motor vehicle accident involving the 2016 Hyundai Sonata. The Trustee cannot ascertain if Ally Capital received insurance proceeds from Debtors' insurance carrier. A Motion to Approve Distribution of Insurance Proceeds has not been filed with the Court, nor has Ally Capital filed an amended proof of claim.

Debtors now come before the Court on a Motion to Approve Post-Petition Financing fourteen (14) months after their Chapter 13 Petition was filed. Debtors seek authority to purchase a 2014 GMC Acadia for \$12,500 at 23.9% interest for 54 months with a monthly payment of \$393.91. Debtors state that while they are aware the interest rate is excessive, they do not have a vehicle and need a car for transportation to and from work.

The Trustee has not received a plan payment from Debtors since July 20, 2020. Debtors are currently \$4,740 in plan arrears through and including the plan payment due December 1, 2020. Debtors have only submitted seven (7) out of fourteen (14) plan payments to the Trustee. The Debtors have not demonstrated the ability to maintain payments with their current auto lender, nor have they been able to submit monthly plan payments to the Trustee. Based on the foregoing, the Trustee requests Debtors' motion be denied.

As always, please feel free to contact this office with any questions or concerns.

Respectfully submitted,

s/ Raymond H. Shockley Jr.

Raymond H. Shockley, Jr.  
Staff Attorney

RHS/jpa

c: Lee M. Perlman, Esquire (via ECF/CM)  
Jason and Heather Amer (via regular mail)